

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Richard Mark Kough,	)	
	)	C/A No. 5:15-2934-MBS-KDW
Plaintiff,	)	
	)	
vs.	)	
	)	<b>O R D E R</b>
Captain G. Pack and Sergeant R. Brown,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Richard Mark Kough is an inmate in custody of the South Carolina Department of Corrections (SCDC). Plaintiff currently is housed at Ridgeland Correctional Institution in Ridgeland, South Carolina. On July 27, 2015, Plaintiff, proceeding pro se, filed a complaint alleging that, while he was housed at Broad River Correctional Institution in Columbia, South Carolina, Defendants Captain G. Pack and Sergeant Brown subjected him to excessive force and denied him medical care in violation of his constitutional rights. Thus, Plaintiff brings this action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling.

On October 19, 2015, Defendants filed a motion to dismiss, asserting that Plaintiff's claim is time barred. By order filed October 19, 2015, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), Plaintiff was advised of the dismissal procedures and the possible consequences if he failed to respond adequately. Although he was granted an extension of time to file, Plaintiff has filed no response to the motion to dismiss.

Upon review of Defendants' concessions in their motion to dismiss, the Magistrate Judge determined that Plaintiff's complaint is not untimely. On April 29, 2016, the Magistrate Judge issued a Report and Recommendation in which she recommended that Defendants' motion to

dismiss be denied. No party has filed objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants’ motion to dismiss (ECF No. 20) is **denied**. The case is recommitted to the Magistrate Judge for additional pretrial handling.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

June 1, 2016